# King County Board of Health

## Secure Medicine Return

### Draft MINUTES

**February 1, 2013**
**9:00 AM – 12:30 PM**
**Location: Chinook Building, 401 Fifth Avenue, Seattle, Rooms 1311-1312, 13th Floor**

**Sub Committee Members Present: Chair Joe McDermott, Board of Health members Mayor David Baker, Dr. Bud Nicola, and Public Health Director Dr. David Fleming**

Staff: Heidi Albritton, Doreen Booth, Anne Burkland, Amy Eiden, Robin Fox, Margaret Shield, Erik Sund, Roman Welyczko, Maria Wood

Observers: Scott Sigmon, Consumer Health Products Association; Inga Manskopf, Seattle Children's Hospital & King County Take Back Your Meds Coalition; Suellen Mele, Zero Waste Washington; Stella Chao, Local Hazardous Waste Management Program, Chair, Management Coordinating Committee; William Struyke, Johnson & Johnson; Lisa Hart, WSNA & King County Take Back Your Meds Coalition

| Time | Agenda Item |
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| 9:00 | Welcome and introductions – Chair McDermott |
| 9:05 | Approve Dec. 5, 2012 Meeting Minutes<br><br>Meeting minutes were approved with no changes. |
| 9:05 | Follow up from last meeting – Chair McDermott, Amy Eiden, PAO<br><br>• Chair McDermott reviewed policy recommendations to date.<br><br>• Ms. Eiden gave an update on work to create a definition of "producer". She also gave a quick overview of the industry's lawsuit against Alameda County's Safe Drug Disposal Ordinance. |
| 9:15 | Policy discussion – Chair McDermott, staff<br><br>Dr. Shield noted that since the December 5th Subcommittee meeting, the DEA had released their proposed rule for take-back and disposal of controlled substances under the Secure and Responsible Drug Disposal Act of 2010. A summary of the proposed rule was provided to the Subcommittee in meeting materials. Staff noted that the take-back provisions of the proposed rule fit well with the Subcommittee's policy recommendations to date. Chair McDermott indicated the Board of Health will submit a comment letter to the DEA by the February 19th |

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| | deadline.<br><br>Defining Cost Responsibilities – finishing discussion from 12/05/12 meeting. This item was addressed last in the policy discussion list.<br><br>Meeting minutes from December 5th were referenced to review decisions that had already been made. Prior decisions related to agency responsibilities for education and initial purchase of drop boxes were noted as additions. No other changes were made.<br><br>Subcommittee decided legislation should read "No person or producer may impose a visible fee on consumers when covered drugs are purchased or returned." Discussion included recognition that businesses are allowed to recover their business costs through their product price.<br><br>It was also decided not to define a cost cap in the legislation. Mayor Baker expressed an interest in ensuring adequate program funding, while also understanding the total cost of the program as a means to discourage profit making in the name of cost recovery. Subcommittee concurred, and it was agreed that each stewardship plan should include an estimated budget that would be examined by the agency, and each annual report should state the total program cost. Dr. Fleming suggested details on how to provide the budget estimate and report on the total cost could be defined in Administrative Rules.<br><br>Defining Education & Promotion Requirements<br><br>Subcommittee expressed desire to keep the education requirements uniform with proposal at the state level, with some modifications, suggesting that doing so will make it easier to transition to a statewide program, if one were to be approved. Requirements include:<br><br>• Producers must promote safe storage of medicines and how to use the take-back program to consumers, pharmacists, retailers, and health care professionals "so that collection options are widely understood by customers, pharmacists, retailers of covered products, and health care practitioners".<br><br>• Producers must provide materials to pharmacies, health care facilities, and others.<br><br>• Producers must provide a website, toll-free number, and materials.<br><br>• Producers must evaluate the effectiveness of its education efforts as |

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| | part of their annual report.<br><br>• A survey of residents to measure awareness and program convenience must be conducted once after the first year and then again at years five and nine.<br><br>Subcommittee decided that all pharmacies should be encouraged to inform consumers about the take-back program and proper disposal of medicines. Pharmacies participating as collection sites should provide clear, standardized instructions on drop boxes; however the design of drop boxes is up to producers and collectors. The Local Hazardous Waste Management Program may develop guidance to producers and pharmacies on drop box instructions.<br><br>Subcommittee decided that health care providers and all other healthcare entities that are prescribing and dispensing drugs in the county should be encouraged to advise patients on availability of the take-back program, including providing materials. These details to be captured in Administrative Rules. The Local Hazardous Waste Management Program may develop template materials.<br><br>Subcommittee decided that government entities in the county responsible for solid waste disposal should also be responsible for providing education about the take-back program through their regular communication methods with residents, including website materials that link to the producer-provided website(s).<br><br>Subcommittee decided that Local Hazardous Waste Management Program should be responsible for creating templates of education materials to provide to local governments in the county.<br><br><u>Definition of "Covered Entities"</u><br><br>Dr. Shield walked through the staff report. Dr. Fleming stated a desire to address needs of residents and other entities in "holes" in waste disposal regulations. The subcommittee decided "covered entities," e.g. entities who can use the take-back program to return "covered drugs" include:<br><br>• Residents of King County, including single and multiple family residences, and<br>• All non- business source entities that do not have an existing regulatory requirement for disposal of waste medicines.<br><br>"Covered entities" do not include business generators of pharmaceutical waste, such as:<br>• Hospitals, clinics, doctor's offices, veterinarian clinics; |

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| | • Pharmacies;<br>• Airport security and law enforcement drug seizures; and<br>• Other nonresidential or business sources of pharmaceutical waste as determined by the Department.<br><br><u>Defining Final Disposal of Collected Medicines</u><br><br>Dr. Shield walked through the staff report, describing the DEA's "non-retrieval" disposal standard and EPA's September 2012 recommendations for disposal of pharmaceutical waste from residential take-back programs. She also explained that federal hazardous waste law and state dangerous waste law do not regulate wastes generated from households; however local disposal regulations may be more stringent. Subcommittee members appreciated that the staff recommendation did not list specific facilities for final disposal to allow flexibility.<br><br>Subcommittee decided that disposal of collected medicines must be at a properly permitted hazardous waste facility or a properly permitted solid waste incineration facility meeting the EPA's large municipal waste combustor (LMWC) standards. Currently the Spokane Waste-to-Energy Facility and the Marion County (Covanta) Solid Waste-to-Energy facility in Brooks, OR are examples of LMWC facilities. This decision prohibits disposal of medicines collected through the take-back program in a solid waste landfill or to the sewer, and excludes the use of smaller or lower temperature combustion facilities such as lumberyards and cement kilns.<br><br>Programs may petition the Department to use disposal technologies that provide superior environmental and human health protection to a hazardous waste facility or a large municipal waste combustor, or that provide equivalent protection at lower cost. Subcommittee did not see need to state the language in #5 in the staff recommendation in the legislation as it is obviously true that producers and stewardship programs may contract for disposal services with appropriately licensed service providers.<br><br><u>Defining Local Agency Responsibilities</u><br><br>Staff continues to develop proposal to refine the government's role in this program -- particularly in regard to the oversight, enforcement and public education components.<br><br>The Subcommittee affirmed the current approach to these roles as described in the staff report.<br><br>Subcommittee members expressed an interest in agency assistance with |

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| | the start-up cost of secure drop boxes, to incentivize participation by the largest possible number of pharmacy and law enforcement collectors.<br><br><u>Determining Enforcement Actions and Penalties</u><br><br>Ms. Eiden explained the current Board of Health penalties and enforcement actions: $25/day of violation for non-commercial; $250/day of violation for commercial. She explained the Board is not locked into this approach, and stated it is an option to define a penalty up to a maximum amount with factors to be considered in determining the actual penalty in a given situation. Dr. Fleming suggested the enforcement penalty against a non-participating producer should be commensurate with the producer's share of the program costs if it were participating. The subcommittee appreciated this frame and also expressed a need to establish appeal processes. Staff work continues on this subject. |
| 12:50 | Next steps<br><br>It was determined that the subcommittee will hold a work session with key stakeholders to discuss the major policy decisions made. The full Board will receive an update at its February 21st meeting. The Subcommittee hopes a public hearing in front of the full Board will occur this spring. |
| 1:00 | Adjourn<br><br>Next meeting: TBD |